*** THE HON'BLE MR JUSTICE GODA RAGHURAM**

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

–

+ Writ Petition No: 9086 of 2005

–

% 03-5-2005

Chintala Bhovana …PETITIONER.

Vs.

$ The Collector and District Magistrate, Srikakulam

and two others.

...RESPONDENTS.

! COUNSEL FOR THE PETITIONER: Mr.S.Ram Babu

^ COUNSEL FOR THE RESPONDENTS: The Advocate General

< Gist :

> Head Note :

? CITATIONS:

1. (2004) 10 SCALE 315 = (2005) 3 SCC 666
2. (2005) 3 SCC 663

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF MAY

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

And
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 9086 of 2005

Between:

Chintala Bhovana, S/o. Dullabha,
Pedahsala Village, Gajapathi District.

... PETITIONER

AND

1 The Collector and District Magistrate, Srikakulam.
2 The Government of Andhra Pradesh, Rep. by its Chief Secretary, Secretariat Buildings, Hyderabad.
3 The Superintendent District Jail, Rajahmundry.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Habeas Corpus directing the Respondents to produce Smt. Ichapuram Kamala, who is detained in Central Jail at Rajahmundry before this Hon'ble Court and she may be released forthwith after declaring her detention is illegal and void and pass such other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner: MR.S.RAM BABU

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following:

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ORDER: (per the Hon'ble Dr.Justice G. Yethirajulu)

1. The petitioner is the brother-in-law of the detenu. He filed this writ of habeas corpus on behalf of the detenu for her release from the Central Prison, Rajahmundry after declaring her detention as illegal and void.

2. The detenu is described as a 'bootlegger' indulging in possessing and selling I.D. Arrack, the consumption of which would result in grave or widespread danger to life or public health. On 27-11-2004 the first respondent passed an order under Section 3 (1) and (2) of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug-offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act') ordering detention of the detenu to prevent her from further acting in any manner prejudicial to the maintenance of public order. The petitioner contended that the first respondent failed to

   1) follow the mandatory procedure prescribed under law,
   2) verify the correctness of the allegations, and
   3) assess whether the offences mentioned in the grounds fall under the Act.

3. In the grounds of detention the detenu was described as a 'bootlegger' and there was a reference to as many as 11 instances in which crimes were registered against the detenu for indulging in illegal possession and sale of I.D. liquor, and transporting the same from abutting State of Orissa by causing wide spread danger to public health. Ground No.1 relates to a crime registered on

21-11-1999 for possessing 10 litres of I.D. liquor, ground No.2 relates to the offences dated 25-6-2000 for possessing 20 litres of I.D. liquor and ground No.3 relates to the offence dated 9-2-2003 for possessing 20 litres of I.D. liquor. The subsequent grounds relate to the offences of the year 2003 and 2004. Though ground Nos.3 to 11 are proximate to each other and ground No.11 is proximate to the date of the order of detention, there is a gap of 2 years and 8 months between the offence covered by ground No.2 and the offence covered by ground No.3 and they are not proximate to each other. The Supreme Court in **Collector & District Magistrate v. Sangala Kondamma** held as follows:

> Thus, if the facts placed before the detaining authority are proximate to each other and the last of the facts mentioned is proximate to the order of detention, then the earlier incidents cannot be treated as stale and detention order cannot be set aside.

4. In **District Collector v. V. Laxmanna** the Supreme Court applied the principle laid down in **Sangala Kondamma**
(1 supra) and held that when some of the incidents relied upon by the detaining authority were stale, the order of detention cannot sustain. In the case on hand, the incidents covered by ground Nos.1 and 2 are stale on account of non-proximity to incidents covered by ground Nos.3 to 11. Since the first respondent passed the order of detention by taking into consideration the stale incidents also, the impugned order is not sustainable under law. Therefore, the order of detention dated 27-11-2004 is liable to be set aside.

5. In the light of the above finding, we do not find the necessity of giving findings on other grounds.

6. In the result, the writ petition is allowed. The order of the first respondent dated 27-11-2004 is set aside. The detenu Smt.Ichapuram Kamala shall be set at liberty forthwith, if she is not required in any other case.

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(Goda Raghuram, J)

(Dr.G.Yethirajulu, J)

03rd May 2005.

Note:

L.R. copy be marked

(By order)

svs

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Justice Bilal Nazki, the Chief Justice on this the Tuesday, the 3rd day of May, Two thousand and five.

ASSISTANT REGISTRAR

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SECTION OFFICER

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(for His Lordship's kind perusal)

2 One Copy to the Honourable Dr.Justice G. Yethirajulu

(for His Lordship's kind perusal)

3 The Collector and District Magistrate, Srikakulam.
4 The Chief Secretary, Government of Andhra Pradesh,

Secretariat Buildings, Hyderabad.
5 The Superintendent District Jail, Rajahmundry.

6 The Advocate General, High Court Buildings, Hyderabad.

7 Mr.S. Rambabu, Advocate (OPUC)

8 The Special Officer, Public Interest Litigation, High

Court Buildings, Hyderabad.

9 The Secretary, A.P. State Legal Aid and Advisery Board,

High Court Buildings, Hyderabad.

10 The Secretary to Government of Andhra Pradesh,

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